

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1403-02
Bill No.: SCS for HB 462
Subject: Public Service Commission; Utilities
Type: Original
Date: April 29, 2011

Bill Summary: This proposal modifies provisions relating to public utilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	\$1,048,088	\$2,096,177	\$2,096,177
Total Estimated Net Effect on General Revenue Fund	\$1,048,088	\$2,096,177	\$2,096,177

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Public Counsel Fund*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds*	\$0	\$0	\$0

*Offsetting Income and Cost for FY 12 is \$1,572,133 and FY 13 & FY14 is \$2,096,177

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Natural Resources** assume this proposal does not assign any direct duty or responsibility to their agency so no direct fiscal impact is anticipated.

Officials from the **Department of Revenue** state there would be no fiscal impact to their agency.

In response to SCS for SB 48 (FN 0251-02) from this session, officials from the **Office of the Governor** stated there should be no added cost to the Governor's Office as a result of this proposal and the **Office of State Treasurer** stated there would be no fiscal impact to their agency.

§386.370

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state this proposed legislation should not result in additional costs or savings to BAP.

The proposal lowers the total amount that may be collected for the PSC from its current maximum of .25% of the total gross intrastate operating revenue to .22% of total gross intrastate operating revenue. The proposal limits the total amount of fee revenue that may be collected for the OPC to .02% of total gross intrastate operating revenue. Therefore, the total amount that could be assessed to regulated public utilities would be capped at .24% of total gross intrastate operating revenue. The decreased overall cap on assessments may reduce total fees collected and therefore impact total state revenue collections. BAP defers to the PSC and OPC for an estimate of the fiscal impact. The decreased overall cap would decrease 18e.

Oversight assumes the change in assessments in the event an electric company obtains a combined license would be beyond the scope of this fiscal note and will, for fiscal note purposes only, assign no fiscal impact.

Officials from the **Department of Economic Development - Office of Public Counsel** assume this bill would change the source of funds used to operate the agency from general revenue to a special fund. The revenues for the fund would come from assessments on regulated utilities, which would recover the assessments through rates charged to customers.

FISCAL DESCRIPTION (continued)

Because utilities are permitted to pay assessments in quarterly installments, it is assumed that the agency's operations in the first quarter of the fiscal year after the bill becomes effective will be funded through general revenue. Any allocation of cost for the Office of Administration Central Service Cost Allocation Plan are not included in this estimate.

Officials from the **Public Service Commission** state the potential reduction in the cap could result in a reduction of FTE and expenses. Assumptions are unknown at this time, but are anticipated to be in excess of \$100,000.

Oversight assumes that since the revenue trend is unknown, it is unknown if the potential reduction in the cap would actually result in a necessary reduction of FTE and expenses.

Oversight assumes PSC would make adjustments in expenditures to reflect receipts. Due to the speculative nature of future revenues, for fiscal note purposes only, **Oversight** will assign no cost or savings to Public Service Commission Fund for this section of the proposal.

§393.135

According to officials from the **Public Service Commission - Office Public Counsel (OPC)**, this proposal provides that certain expenditures made by regulated public utilities must be included in the utilities' rates unless a party in a rate case at the Public Service Commission can prove that the expenditures were not prudent. The expenditures are the costs of obtaining permits that might eventually be used to support a nuclear power plant. This is a change from existing law, which now provides that the utility, and not the utility's customers, has to bear these costs until the plant is completed and providing electricity to customers.

OPC, whose statutory responsibility under §386.710 is to represent the public interest, must be able to investigate, analyze, and - if necessary - challenge the prudence of these expenditures. OPC does not now have any resources that could be devoted to analysis of the prudence of the costs of obtaining an Early Site Permit (ESP). According to the bill language, these costs are likely to be \$40 million or more, and they will have been incurred over a number of years. OPC states costs associated this investigation will be incurred in-house.

Officials from the **Public Service Commission** state that the Nuclear Regulatory Commission has taken three to four years to issue early site permits.

<u>FISCAL IMPACT - State Government</u>	FY 2012 10 Months	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Savings</u> - Office of Public Counsel			
Personal Service (12 FTE)	\$938,798	\$1,251,731	\$1,251,731
Fringe Benefits	\$466,848	\$622,464	\$622,464
Expense and Equipment	<u>\$166,487</u>	<u>\$221,982</u>	<u>\$221,982</u>
Total Savings - OPC (§386.370)	\$1,572,133	\$2,096,177	\$2,096,177
<u>Cost</u> - Office of Public Counsel			
Personal Service (12 FTE)	(\$312,933)	\$0	\$0
Fringe Benefits	(\$155,616)	\$0	\$0
Equipment and Expense	<u>(\$55,496)</u>	<u>\$0</u>	<u>\$0</u>
Total Cost OPC (§386.370)	<u>(\$524,045)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$1,048,088</u>	<u>\$2,096,177</u>	<u>\$2,096,177</u>

<u>FISCAL IMPACT - State Government</u>	FY 2012 10 Months	FY 2013	FY 2014
PUBLIC COUNSEL FUND			
<u>Income</u> - Increased assessments on regulated utilities (§386.370)	\$1,572,133	\$2,096,177	\$2,096,177
<u>Cost</u> - Office of Public Counsel			
Personal Service (12 FTE)	(\$938,798)	(\$1,251,731)	(\$1,251,731)
Fringe Benefits	(\$466,848)	(\$622,464)	(\$622,464)
Expense and Equipment	<u>(\$166,487)</u>	<u>(\$221,982)</u>	<u>(\$221,982)</u>
Total Costs - OPC (§386.370)	<u>(\$1,572,133)</u>	<u>(\$2,096,177)</u>	<u>(\$2,096,177)</u>
ESTIMATED NET EFFECT ON PUBLIC COUNSEL FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Local Government

FY 2012

FY 2013

FY 2014

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal modifies provisions pertaining to public utilities.

§386.370 - FUNDING FOR OFFICE OF PUBLIC COUNSEL

Under current law, the Public Service Commission (PSC) receives funding from a fee assessed to each regulated public utility based on the proportionate amount of time and expenses spent by the PSC on each utility. This proposal creates a similar fee assessment and collection mechanism for the Office of Public Counsel (OPC). The proposal lowers the total amount that may be collected for the PSC from the fee, from its current maximum of .25% of the total gross intrastate operating revenue to .22% of total gross intrastate operating revenue. The proposal limits the total amount of fee revenue that may be collected for the Office of Public Counsel to .02% of total gross intrastate operating revenue and places a cap on the assessment to telecommunications companies.

§393.135 - EARLY SITE PERMIT

After October 1, 2011, any electric company seeking an Early Site Permit from the U.S. Nuclear Regulatory Commission must submit reports to the PSC every 6 months during the entire permitting process. The reports must document the work completed and costs incurred up to that point toward the acquisition of the Early Site Permit as well as the projected amount of work and costs remaining.

Once the Early Site Permit is obtained, and provided the company complied with the reporting requirement, the electric company may recover up to \$45 million of the expenditures, plus interest, for the permit from its ratepayers through rates and charges over a period not to exceed 20 years. The company may begin the cost recovery on the effective date of tariffs approved by the PSC at the company's first general rate proceeding following the acquisition of the permit. Other electric companies that also incur expenses toward the Early Site Permit may similarly recover their costs through rates and charges.

FISCAL DESCRIPTION (continued)

If an electric company has recovered costs from its ratepayers for an Early Site Permit but the company's interest in the Early Site Permit is subsequently sold or transferred, or the company receives reimbursement for the costs from another source, the PSC must decide how the electric company will credit its ratepayers for the moneys received in the sale, transfer or reimbursement.

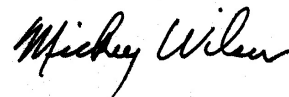
The PSC must also decide how any profits from a sale or transfer of an Early Site Permit will be shared with ratepayers. Credits made to ratepayers must also include interest.

If the power plant for which the Early Site Permit was acquired is not constructed before the Early Site Permit expires, the PSC must hold a hearing to determine if the electric company acted imprudently by failing to construct the plant. If the PSC determines that the electric company acted imprudently, the PSC must order any company that recovered costs for the Early Site Permit to credit its ratepayers for the costs determined by the PSC to be imprudent. The companies must issue the credits, including interest, over a period of 5 to 10 years.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Economic Development
Public Service Commission
Office of Public Counsel
Office of the Governor
Department of Natural Resources
Department of Revenue
Office of State Treasurer



Mickey Wilson, CPA
Director
April 29, 2011